

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

MARVIN L. BOOTH,

Plaintiff,

v.

JOHN C. PIOLI,

Defendant.

No. C10-5204 RBL/KLS

**ORDER ADOPTING REPORT AND  
RECOMMENDATION**

The Court, having reviewed the Report and Recommendation of Magistrate Judge Karen L. Strombom, objections to the Report and Recommendation, if any, and the remaining record, does hereby find and **ORDER:**

- 1) The Court adopts the Report and Recommendation.
- 2) Defendant Pioli's motion to dismiss (Dkt. 12) is **GRANTED in part** as to Plaintiff's claims relating to the denial of his furlough request and failure to assist in the filing of a grievance.
- 3) Defendant Pioli's motion to dismiss (Dkt. 12) is **DENIED in part** as to Plaintiff's claim relating to racial discrimination; Plaintiff may file an amended complaint to state facts from which a reasonable inference of discrimination can be made. Plaintiff's Proposed Amended Complaint [Dkt. #16-1] shall be filed, and his Motion to Amend [Dkt. #16] is **DISMISSED as MOOT**.
- 4) This matter is **re-referred** to the Honorable Karen L. Strombom, United States Magistrate Judge.
- 5) Plaintiff's motion to strike (Dkt. 13) is **DENIED**.

- DATED** this 5<sup>th</sup> day of November, 2010.

RONALD B. LEIGHTON  
UNITED STATES DISTRICT JUDGE